



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6151-98

5 November 1999

GYSG [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 19 August 1998, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

Regarding your contested adverse fitness report for 1 November 1996 to 6 October 1997, the Board was unable to find that you were not counseled, noting that both your reporting senior (RS) and reviewing officer say you were informally counseled, and your third sighting officer says that you had numerous counseling sessions with your RS. In any event, they generally do not grant relief on the basis of an alleged absence of counseling, as counseling takes many forms, so the recipient may not recognize it as such when it is provided. They found no inconsistency between the marks and comments of your contested report, nor could they find that it included any false information. While they accepted your assertion that you attained an overall passing score on your Physical Fitness Test (PFT), the PFT work sheet at enclosure (7) to your application shows that you failed the pull-up portion of the test by executing only two. They noted that Marine Corps Order 6100.3J, enclosure (1), paragraph 7 requires a minimum of three pull-ups, and states "Failure to meet the requirements in any event

constitutes failure of the entire test regardless of the total number of points earned." The comment that you lack morals was explained by the statement that you altered your PFT score. Finally, the Board was unable to find that you served as a platoon commander from 31 July to 10 September 1997, so they could not find that your report at issue should have mentioned this.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, D.C. 20380-1775

6151-98

IN REPLY REFER TO:
1610
MMER/PERB
19 Aug 98

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt. [REDACTED] DD Form 149 of 15 Jun 98
(b) MCO P1610.7D w/Ch 1
(c) MCO P1610.7D w/Ch 1-3

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 13 August 1998 to consider Gunnery Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 960720 to 961031 (AN) -- Reference (b) applies
- b. Report B - 961101 to 971006 (CD) -- Reference (c) applies

2. Although the petitioner identifies Report A as a fitness report which he desires to have expunged from his record, he provides absolutely no argument or contentious issues. Concerning Report B, the petitioner indicates the report of record is the third draft of an evaluation for that period and that each was rewritten due to comments in his rebuttal statements. It is his position that the information in the report concerning his failure of the physical fitness test (PFT) and changing his recorded score are "completely false." In addition to the foregoing, the petitioner charges that some of the marks in Section B conflict with comments in Section C. To support his appeal, the petitioner provides copies of previous versions of the report at issue, copies of Page 11 entries from his Service Record Book (SRB), a copy of the Company PFT roster, a copy of his Basic Training Record (BTR), and a copy of a Company letter of 25 June 1997.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Regardless of what the petitioner's concerns may be regarding Report A, the PERB discerns no violations of the performance evaluation system. Likewise, there is nothing

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furnished with reference (a) which somehow casts doubt as to the fairness or accuracy of the overall evaluation.

b. The Board emphasizes that although previous versions of a fitness report may exist, it is the document which is ultimately submitted to this Headquarters, and which becomes part of the Marine's record, that is considered the official report. Any other versions are viewed as "drafts" and have no relevancy to the issues at hand.

c. Although reference (a) provides more detail than the petitioner's rebuttal to the report, the issues which he raises in his appeal are the same basic concerns he levied in his rebuttal statement. Both Captain [REDACTED] (the Reviewing Officer) and Lieutenant Colonel [REDACTED] (the Third Sighting Officer/Battalion Commander) adjudicated the report, albeit in favor of the Reporting Senior's overall evaluation. In this regard, the Board observes that Lieutenant Colonel [REDACTED] obviously conducted a full investigation of all matters pertaining to the report and the petitioner's overall performance during the stated period.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Gunnery Sergeant [REDACTED]'s official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps